

MPAA EXHIBIT 303

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.**

In the Matter of

Distribution of the

2000, 2001, 2002, and 2003

Cable Royalty Funds

**Docket No. 2008-2 CRB CD 2000-2003
(Phase II)**

Direct Testimony of

Paul B. Lindstrom

May 30, 2012



Paul B. Lindstrom
Sr. Vice President
Strategic Media Research

TESTIMONY OF PAUL B. LINDSTROM

My name is Paul Lindstrom. I am a Senior Vice President with Nielsen. I am in charge of research design and analysis for the Nielsen Strategic Media Research group. Nielsen is a global leader in information services for the media and entertainment industries. Nielsen serves the information and marketing needs of television and radio broadcasters, cable networks, advertisers, agencies, media planners, music companies, publishers, motion-picture studios, distributors and exhibitors, and the Internet industry.

I have worked for Nielsen for thirty-four years and have spent the majority of that time designing custom research with a particular focus on new television viewing sources and audience measurement of new services that might compete with television. These have included cable television, pay-TV, satellite services, over-the-air subscription television, VCRs, PC's, on-line services, the Internet, DVDs, cinema, and most recently, place-based and location-based digital networks. I am currently responsible for all national custom research and all custom research for local cable. In my current role, I work with clients to determine the best methodologies to answer their audience research questions. In the television area, these methods can involve either the analysis of existing databases of collected user meter data, local television diary samples, or the development of new databases through the use of new single-

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client sponsored data collections. Through the years I have worked on projects as varied as the pre-launch concept tests for ESPN, The Weather Channel and DirecTV, the design of Nielsen's Syndicated Pay Cable, VCR Usage, Syndicated Satellite and Home Technology Reports, the CommerceNet Study of Internet Usage, the Nielsen Cinema Audience Report, and Nielsen On Location Media. I have been involved in all of the studies that the Motion Picture Association of America ("MPAA") has directed Nielsen to conduct for proceedings before the Copyright Royalty Tribunal, the Copyright Arbitration Royalty Panel, and the Copyright Royalty Judges since 1980. Also, I have testified before those bodies.

The Nielsen name is synonymous with television ratings. Ratings are the percent of the universe of households tuned to a TV program during the average quarter hour. Nielsen ratings provide an estimate of television audience size and are a barometer for viewing choices and preferences. Viewing information is important to broadcast networks, local and national syndicated programs, local cable system operators, multi-system cable operators (MSOs), and interconnects. Interconnects are aggregations of cable systems that cover a particular market or region, thus allowing an agency or advertiser to buy a large area at one time without having to negotiate with many different companies.

As more local cable ad sellers sell local advertising time on cable channels, they need an agreed "currency" in order to maximize the value of their advertising time. Nielsen ratings offer that currency. Nielsen's charter as an independent measurement service is to provide both the buyer and seller of time with unbiased estimates of viewing behavior.



SAMPLING TV RATINGS

To set the context of my testimony, I want to take a minute to discuss ratings and sampling. The Nielsen rating you may see reported in newspapers or magazines is simply a statistical estimate of the number of homes tuned to a program. For example, a rating of 15 for a network television program means that 15% of U.S. television homes are estimated to be tuned in to that program. In 2000, approximately 100.8 million U.S. households (98% of the total) had television sets. A rating of 15 meant that an estimated 15.1 million television households tuned in:

Equation for determining viewing households:

$$\begin{array}{rcl} \text{Rating} \times \text{Total Television Households} & = & \text{Viewing Households} \\ .15 \times 100.8 \text{ million} & = & 15.1 \text{ million} \end{array}$$

Note that when we described the rating, we used the words "statistical estimate." Ratings are based not on a count of all television households, but on the count within a sample of television households selected from all television households. The findings within the sample are then "projected" to national totals. We also sometimes use the phrase "share" to quantify audience viewing levels. "Share" refers to the percentage of television sets in use tuned to a program. In other words, a rating measures what percentage of the universe of television households tuned in to a program, while a share measures what percentage of the number of television households in use are tuned in to a particular program.



DATA COLLECTION

During 2000-2003, Nielsen utilized two basic data collection instruments in our syndicated services: meters and diaries. A set meter is an electronic device attached to a television set in a particular household that detects the channel to which the television is being tuned. The data from these set meters are then converted into household ratings. Household meter data was collected year-round in Nielsen's metered markets during 2000-2003.¹ Diaries are paper booklets in which each person in the household records viewing information. In 2000-2003, diary data was collected in Nielsen's metered markets during the months of November, February, May, and July, which are also known as the "sweeps" rating periods. Seven-day diaries were mailed to homes to keep a tally of what was watched on each television set and by whom. Over the course of a sweeps period, diaries were mailed to a new panel of homes each week. At the end of each month, all of the viewing data from the individual weeks were aggregated into Nielsen's database.

PURPOSE OF TESTIMONY

The purpose of my testimony is to explain the methodology employed in a custom analysis of Nielsen diary data for 2000-2003 that I designed for MPAA. My custom analysis estimated actual distant viewing by cable households to the signals identified in Appendix D to Marsha Kessler's testimony (the "Kessler Stations") for

¹ At the beginning of 2000, Nielsen had 47 metered markets. By the end of 2003, Nielsen had 55 metered markets.



each year at issue in this proceeding. I understand that this distant viewing data is a part of Dr. Jeffrey Gray's economic analysis.

METHODOLOGY

The MPAA study is a custom analysis of the sweeps diary viewing data that are used for generating the cable and broadcast network ratings. The methodology, in brief, is as follows:

- 1) MPAA supplied Nielsen with the list of the Kessler Stations (all of which were distantly retransmitted by cable systems in 2000, 2001, 2002, and 2003). I understand that MPAA relied on data from Cable Data Corporation ("CDC") identifying stations distantly retransmitted by cable systems during 2000-2003 and selected the Kessler Stations based on the number of distant subscribers and the amount of Section 111 royalty fees generated by each station.
- 2) To limit the result to only distant viewing, MPAA provided Nielsen with the information as to whether counties were distant or local for each of the Kessler Stations. To do this, MPAA performed a county analysis and gave us the identities of the counties that should be considered local for the purpose of Nielsen's custom analysis.
- 3) Nielsen eliminated all non-cable viewing of programs for the Kessler Stations and all viewing to each station that occurred within the station's local area. Nielsen only measured the cable viewing for each station individually for counties that were not identified as local by the MPAA. What was left after



the elimination of local viewing was distant viewing among cable households.

This is reported in the form of minutes of viewing by households.

"ZERO VIEWING" INSTANCES

One concern that has been raised in past Phase II proceedings was the incidence of the so-called "zero viewing" instances that appeared in Nielsen's custom analysis. The appearance of these "zero viewing" instances is consistent with what I would expect to find in a custom analysis of viewing to distant signals by cable subscribers, for at least two reasons. First, it is important to recognize that Nielsen's custom analysis excluded all distant viewing to programs that are not compensable in this proceeding. This included distant viewing to ABC, CBS, and NBC network programs and programs that were not simultaneously broadcast on both WGN's local feed and WGN's satellite feed (known as WGN-A). Where noncompensable programs aired, Nielsen's custom analysis properly reported a zero viewing value. Second, the amount of actual viewing minutes to certain distant signals is very small. Where the viewing minutes to particular distant signal programs were so small as to be statistically insignificant, Nielsen's custom analysis would assign a zero viewing value.

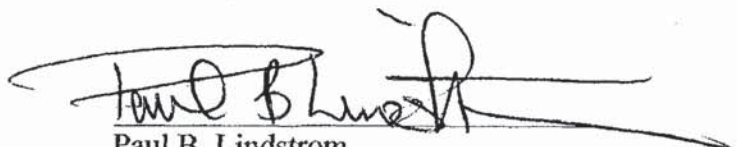
Thank you for the opportunity to testify in this proceeding.

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DECLARATION OF PAUL B. LINDSTROM

I declare under penalty of perjury that the foregoing testimony is true and correct, and of my personal knowledge.

Executed on May 23, 2012


Paul B. Lindstrom

Certificate of Service

I hereby certify that on Thursday, April 05, 2018 I provided a true and correct copy of the Designated Prior Testimony of Paul B. Lindstrom, Written Direct Testimony, submitted in Docket No. 2008-2 CRB CD 2000-2003 (Phase II), filed May 30, 2012. to the following:

Devotional Claimants, represented by Benjamin S Sternberg served via Electronic Service at ben@lutzker.com

Independent Producers Group (IPG), represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Signed: /s/ Lucy H Plovnick